

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION**

NOTICE OF REMOVAL

NOW COMES the Defendant, MENARD, INC., by and through its attorneys, W. ANTHONY ANDREWS of OTTOSEN, BRITZ, KELLY, COOPER GILBERT & DINOLFO, LTD., pursuant to 28 U.S.C. §§ 1332 and 1441, file this notice of removal of the above captioned matter from the Circuit Court of the Twenty-Second Judicial Circuit, McHenry County, Illinois, under Case Number 16 LA 141 to this Honorable Court.

In support of this Notice the Defendant states the following:

JURISDICTION

1. This action is a civil action of which this Court has original jurisdiction under 28 U.S.C. §1332(a)(1), and is one which may be removed to this Court by Defendant pursuant to the provisions of 28 U.S.C. §1441(a) in that it is a civil action between citizens of different states and the matter in controversy exceeds the sum of \$75,000, exclusive of interest and costs because the Plaintiff is a citizen of Illinois; and the Defendant MENARD, INC. is a Wisconsin Corporation.

STATEMENT OF FACTS

2. On April 25, 2016, an action was commenced in the Circuit Court of the Twenty-Second Judicial Circuit, McHenry County, Illinois, entitled Sarah DePuye, Plaintiff, vs. Menard, Inc., case number 16 LA 141.

3. Defendant was served with summons on May 9, 2016, and received a copy of Plaintiff's complaint on the same date. As a result, this Notice is filed within the time required by law.

4. A copy of all process, pleadings and orders served upon defendant in the state court action are attached hereto as **Exhibit A**.

5. This Notice for Removal is timely made under 28 U.S.C. § 1446(b). Not more than 30 days have passed since service of the Complaint on the Defendant which enabled Defendant to ascertain that this case was removable.

BASIS FOR REMOVAL

6. Removal of a civil action is allowed under 28 U.S.C. § 1441 by a Defendant who is sued on a claim or right that has original jurisdiction in the federal district court.

7. This claim is removable based on 28 U.S.C. § 1332(a)(1) because the amount in controversy exceeds \$75,000 and there is complete diversity of citizenship between the Plaintiff and the Defendant. The action is within the subject matter jurisdiction of this Court.

8. At the time which this action commenced, Plaintiff was, and continues to be, a citizen of the State of Illinois.

9. At the time which this action commenced, Defendant Menard, Inc. was, and continues to be, a corporation incorporated under the laws of Wisconsin, having its principal place of business in the State of Wisconsin at 5101 Menard Drive, Eau Claire, Wisconsin 54703.

10. Defendant is informed and believes that plaintiff, Sarah DePuye, was, and still is, a citizen of the State of Illinois. Defendant Menard, Inc. was at the time of the filing of this action, and still is, a citizen of the State of Wisconsin, having its principle place of business in the State of Wisconsin.

11. This action is a civil action of which this Court has original jurisdiction under 28 U.S.C. §1332, and is one which may be removed to this Court by defendant pursuant to the provisions of 28 U.S.C. §1441(b) in that it is a civil action between citizens of different states and the matter in controversy exceeds the sum of \$75,000, exclusive of interest and costs because Plaintiff has alleged damages in excess of \$50,000 from the Defendant, for injuries Plaintiff describes as severe along with pain and suffering. Plaintiff is seeking recovery for damages related to a radial head fracture to her right wrist and two shoulder surgeries according medical records provided by Counsel for Plaintiff. While Plaintiff has not yet made a demand in this matter, Plaintiff's Counsel has preliminarily asserted that the Plaintiff would seek to recover damages in excess of \$75,000 and refused to sign any stipulation limiting damages to an amount equal to or less than \$75,000.

COMPLIANCE WITH REMOVAL PROCEDURES

12. The Defendant has complied with all of the procedural requirements for removal set forth in 28 U.S.C. § 1446. As noted above, the notice of removal is being filed within 30 days of the service of the lawsuit.

13. Notice of this removal is being provided to Plaintiff, through their attorneys of record and the Circuit Court of the Twenty-Second Judicial Circuit, McHenry County, Illinois.

14. Pursuant to § 1446(d), a copy of this Notice of Removal will be filed with the Circuit Court of the Twenty-Second Judicial Circuit, McHenry County, Illinois, in Case No. 16 LA 141.

WHEREFORE, for the foregoing reasons, Defendant Menard, Inc. removes this action from the Circuit Court of McHenry County, Illinois to the United States District Court for the Northern District of Illinois, Western Division and respectfully requests that the Court exercise jurisdiction over this matter.

Respectfully submitted,

Menard, Inc.

Dated: June 2, 2016

By: /s/ W. Anthony Andrews
One of its attorneys

W. Anthony Andrews
ARDC: 6217267
Ottosen, Britz, Kelly, Cooper
Gilbert, & DiNolfo Ltd.
1804 N. Naper Blvd; Suite 350
Naperville, IL. 60563
630-682-0085

STATE OF ILLINOIS)
COUNTY OF DUPAGE) SS.

I, W. ANTHONY ANDREWS, do hereby certify, and having been first duly sworn upon oath do hereby state, that I have read the above and foregoing Notice of Removal, by me subscribed as signatory for MENARD, INC., and the same is true and correct to the best of my knowledge and belief.

/s/ W. Anthony Andrews
W. ANTHONY ANDREWS

SUBSCRIBED and SWORN to before
me this 2nd day of June, 2016.

/s/ Andrea Mangialardi
NOTARY PUBLIC

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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION**

SARAH DEPUYE)
Plaintiff,)
v.) Case No:
MENARD, INC.,) (Removed from the Circuit Court
Defendant.) of McHenry County, Illinois
Case No. 16 LA 141)
JURY DEMAND

CERTIFICATE OF SERVICE

I hereby certify that on June 2, 2016, I filed the foregoing **Notice of Removal** with the Clerk of the U.S. District Court, Western Division, and I hereby certify I have mailed by United States Postal Service, the documents to the following:

TO: David Loughnane
Zukowski, Rogers, Flood & McArdle
50 Virginia Street
Crystal Lake, IL 60014

/s/ W. Anthony Andrews
W. ANTHONY ANDREWS

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